

HEIRS OF CATHARINE GILLIN.

FEBRUARY 2, 1897.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HURLEY, from the Committee on War Claims, submitted the following

REPORT.

[To accompany H. R. 10161.]

The Committee on War Claims, to whom was referred the bill (H. R. 10161) for the relief of the heirs of Catharine Gillin, having had the same under consideration, submit the following report:

That this is a claim for the proceeds of 19 boxes of tobacco taken from Mrs. Gillin during the late war by one Mr. Loomis, a Treasury agent. At the time of the taking of said tobacco Mrs. Gillin resided at Richmond, Va. Her husband died in 1868. She presented her claim to the Southern Claims Commission for adjudication. That Commission reported that—

The claimant was loyal to the United States Government, but there was no evidence that the tobacco was taken for the use of the Army; nor is tobacco a regular army supply for which this Commission is authorized to report in favor of compensation. The tobacco was taken possession of by one Mr. Loomis, a Treasury agent.

After this case was disallowed the Commissioner of Claims rendered the following decision:

Tobacco.—Until the act of March 3, 1865, tobacco was not furnished to the Army. Under that act it has been issued to those who use it, and charged to them on the pay rolls.

In the claims that have come before us, tobacco has not usually been regarded as a supply, and therefore has been disallowed.

Claims for tobacco alleged to have been taken and issued to the troops at Atlanta, Ga., under the order of General Sherman of September 8, 1864, are pending before us. The examination of them is still going on, and they will be reported upon hereafter.

After the capture of Atlanta, in September, 1864, General Sherman found that he was short of rations for his army, and that the soldiers were subject to many privations. To make his army contented, and, as far as possible, to make up to them for their usual rations, of which they were for the time deprived, he issued an order on the 8th of September, 1864, authorizing the chief commissary of subsistence to take possession of and issue to the troops all the tobacco in Atlanta, and give certificates thereof to the owners, to be accounted for in accordance with existing orders.

Pursuant to this order tobacco belonging to George J. Stubblefield was taken, and upon his making claim for payment the commissary department recommended, "As this tobacco was taken by order of General Sherman and issued to the troops in lieu of other rations, and as the loyalty of the claimant is clearly established," that payment should be made. This was approved by the Secretary of War, Mr. Stanton, and the claim was paid.

The payment stands upon the ground that when an army is deprived of its usual rations the commanding general can, in his judgment, authorize an article not a supply to be taken and used for the time being as a supply and in lieu of other rations; and in such case the Government is bound to pay for it.

The Commissioners of Claims followed this precedent and allowed for tobacco when taken under General Sherman's order.

The Commissioners of Claims, under twelfth article of treaty of 8th May, 1871, between the United States and Great Britain, adopted the same principle. Hale's report to the Secretary of State, November 30, 1873, page 45, showing an award only when it was "allowed as an army ration."

Your committee, in view of the foregoing statement of facts, recommend the passage of the bill.